

1 VICTOR PARRA JR
2 CDC No. P-58682
3 P.O. Box. 799002
4 San Diego CA 92179
5 In Pro se

FILED

2008 JUN -4 AM 8: 23

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

NUNC PRO TUNC

MAY 29 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 VICTOR PARRA
12 Petitioner
13 V.
14 JAMES TILTON, Warden, et al.,
15 Respondent

Case No. 08CV0472 J (LSP)

MOTION AND MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT OF STAY AND ABEYANCE

17 COMES NOW PETITIONER Victor Parra, In pro se
18 Pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003). petitioner asks
19 the Court to stay petitioners claim. Petitioner sincerely believes he has
20 exhausted the claim at the state courts.

21 The U.S. Supreme Court has recently stated that by showing
22 good cause and the potential merit of the claim petitioners may hold in
23 Abeyance Habeas petitions Rhines v. Webber, 544 U.S. 269 (2005) as long as
24 petitioners do not use this procedure and abuse it by delaying state court
25 review of their claims.

26 Plaintiff petitioner satisfies the Rhines require-
27 ments. If the court grants the stay, petitioner will submit an
28 Habeas petition to the Imperial County Superior Court and all the

1 state Courts without leting more than 30 day to laps and will resubmitt
2 the petition between courts timely.

3 Upon completion of exhaustion on all state courts petitioner will
4 be back to the district court in less than 30 days.

5 Good cause appearing petitioner respectfully request this court
6 grants stay and Abeyance.

7
8 Dated May 22, 2008

Respectfully Submitted
Victor Parra
In pro se

VERIFICATIONSTATE OF CALIFORNIA
COUNTY OF SAN DIEGOCase No. 08CV0472 J (LSP)

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, PARRA VICTOR DECLARE UNDER PENALTY OF PERJURY
THAT: I AM THE Petitioner IN THE ABOVE ENTITLED ACTION;
I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS
TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND
BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 22 DAY OF: May 20 08 AT Richard J.
Donovan. P.O. Box. 799002, San Diego CA. 92179

(SIGNATURE) Victor Parra

(DECLARANT PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, VICTOR PARRA AM A RESIDENT OF Richard J. Donovan Corr. Fac. San Diego
COUNTY, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM ~~NOT~~
A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX. 799002
San Diego CA. 92179

ON May 22 20 08 I SERVED THE FOREGOING: Motion and
Memorandum of Points and authorities In support of stay and abeyance

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S),
WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED
AT 480 Alta Road, San Diego CA. 92179

To the Clerk
U.S. District Court
Southern District of California
880 Front Street, Suite 4290
San Diego CA. 92101 - 8900

Bradley A. Weinreb
Deputy Attorney General
110 West A Street, Suite 1100
San Diego CA. 92101
P.O. Box. 85266
San Diego CA. 92186-5266

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS
REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: May 22, 2008Victor Parra

(DECLARANT PRISONER)